

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Simone Cherry (T2)	Team: Team # 5	CCRB Case #: 200302484	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Sunday, 04/06/2003 1:10 AM	Location of Incident: s/b Baisley Blvd.c/o Rockaway Blvd.	Precinct: 113	18 Mo. SOL 10/6/2004	EO SOL 10/6/2004	
Date/Time CV Reported Sun, 04/06/2003 11:14 AM	CV Reported At: Precinct	How CV Reported: Phone	Date/Time Received at CCRB Sun, 04/06/2003 11:14 AM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Joseph Matzinger	25686	927158	113 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Giovanni Giovanniello	08843	926880	113 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Joseph Matzinger	Discourtesy: PO Joseph Matzinger spoke obscenely to § 87(2)(b)	

Synopsis

On April 6, 2003, the complainant, § 87(2)(b) called her complaint into the 113th Precinct. Detective Kevin Ryan, assigned to the 113th Precinct then referred this complaint to the CCRB. § 87(2)(b) filed this complaint on behalf of her § 87(2)(b)-old daughter, § 87(2)(b) and several of her daughter's friends. However, § 87(2)(b), § 87(2)(b) and her friends were uncooperative with proceeding with this investigation and missed several appointments. Only § 87(2)(b)-old victim, § 87(2)(b) cooperated with this CCRB investigation. § 87(2)(b) was offered mediation and rejected, opting instead for a full investigation.

This incident occurred on April 6, 2003, and stems from a traffic incident involving Police Officer Joseph Matzinger and § 87(2)(b). This occurred after § 87(2)(b) was stopped in a vehicle that was driven by another individual named § 87(2)(b). § 87(2)(b) was issued a § 87(2)(b) summons. § 87(2)(b) said that § 87(2)(b) did not speak English well. She then tried explaining to him why he was receiving the summons. § 87(2)(b) alleged that PO Matzinger spoke obscenely to her.

§ 87(2)(b), § 87(2)(g)

Summary of Complaint

According to NYPD civilian complaint report, on April 6, 2003, at 11:00am, it was reported that § 87(2)(b) initially called her complaint into the 113th Precinct (encs.3A-B). § 87(2)(b) did not witness this incident but filed this complaint on behalf of her daughter, and her daughter's friends. She reported that the subject officer told one of her daughter's friends, "You want to be a smart ass, all of you get out of the car."

The victim, § 87(2)(b) was not arrested or issued any summons. In her CCRB interview on May 23, 2003 (encs.7A-B), § 87(2)(b) a § 87(2)(b)-old black female, who is a § 87(2)(b) reported that she was seated as a passenger in a vehicle driven by an acquaintance named § 87(2)(b). § 87(2)(b) said that she and five other individuals had left a § 87(2)(b) party and § 87(2)(b) was driving them home. While en route, § 87(2)(b)'s vehicle was pulled over by two officers in the vicinity of Rockaway Boulevard in Queens and the driver, § 87(2)(b) was issued a summons § 87(2)(b). § 87(2)(b) did not obtain these officers names or shield/badge numbers but provided physical descriptions (which matched PO Joseph Matzinger and PO Giovanni Giovanniello).

According to § 87(2)(b) she admitted that she engaged in a verbal dispute with the subject officer and used profanity. § 87(2)(b) also said that she is only complaining about the subject officer and not this officer's partner. § 87(2)(b) also added that the subject officer's partner did not say anything during this incident. § 87(2)(b) said that prior to the officers issuing § 87(2)(b) the § 87(2)(b) summons that the officers told him that he had too many individuals in his car and was not wearing a seatbelt. § 87(2)(b) said § 87(2)(b) spoke little English, so she then verbally intervened and told § 87(2)(b) why he was receiving the summons. § 87(2)(b) then said that the subject officer thought she was being disrespectful and told her, "Get out the fuckin car now, you don't know how to mind your business. You talk too much." § 87(2)(b) then said she replied, "I'm not getting out the car. I'm not going no fucking where." § 87(2)(b) then said that her friends told her to be quiet. Subsequently, § 87(2)(b) said that she and her friends all exited the vehicle and § 87(2)(b) remained seated in the vehicle. § 87(2)(b) said she then asked the subject officer to call them a cab because it was dark outside and they had no money and did not know where they were, and the officer replied, "That's on

you,” and would not help them. § 87(2)(b) then said that she and her friends told § 87(2)(b) to meet them two blocks away to take them home, and he did.

Results of Investigation

Efforts to interview witnesses § 87(2)(b), § 87(2)(b), § 87(2)(b), § 87(2)(b), § 87(2)(b), § 87(2)(b).

During the months of April through July several phone calls were made to witnesses § 87(2)(b), § 87(2)(b), § 87(2)(b), § 87(2)(b), and § 87(2)(b) (encs.11A-F). All have been uncooperative with this investigation. They all were contacted and several appointments were scheduled with them, but they all failed to appear at CCRB for interviews.

On September 22, 2003, the investigator received a phone call from § 87(2)(b) (enc.8). However, his daughter, § 87(2)(b) § 87(2)(b) stated that her father speaks Spanish, and little English, and acted as translator. During this phone conversation, § 87(2)(b) stated that her father encountered two police officers and did receive a § 87(2)(b) summons. He appeared in court on § 87(2)(b). § 87(2)(b) is not a livery cab, but did pick of several females from a party and was driving them home. § 87(2)(b) only knew two of the females, and the officers only made one female exit his vehicle because there were too many individuals in his car. This was the extent of § 87(2)(b)'s recollection of incident.

Officer Statements

Police Officer Joseph Matzinger, assigned to the 113th Precinct, and who is a white § 87(2)(b) old male, provided a statement to CCRB on August 13, 2003 (encs.9C-D). On April 6, 2003, PO Matzinger worked a 11:15p.m.x7:50a.m. tour, dressed in uniform and was assigned to marked vehicle #2742, with PO Giovanni Giovanniello.

While patrolling in the vicinity of Baisley Blvd. near Rockaway Blvd. in Queens, PO Matzinger encountered the victim, § 87(2)(b) in a vehicle this day. PO Matzinger said that he saw a vehicle described as a Lincoln Town car with an excessive amount of individuals seated in the back seat of the vehicle. PO Matzinger also said that he saw the driver of this vehicle, later identified as § 87(2)(b) not wearing a seatbelt and the officer then pulled the vehicle over.

PO Matzinger issued the driver summons § 87(2)(b). PO Matzinger also spoke to a female passenger (subsequently identified as § 87(2)(b) that was seated in the vehicle, but denied engaging in any verbal disputes with § 87(2)(b). According to PO Matzinger, when he wrote the driver the § 87(2)(b) summons, a female passenger seated directly behind him became “very agitated.” PO Matzinger said he did not obtain this individual’s name, but heard someone in the vehicle call him a “fucking pig,” and say, “he had nothing fucking better to do.” PO Matzinger said he was not certain who made this statement but knew that one of the female passengers did. PO Matzinger then said that he instructed only one of the females to exit the vehicle, to alleviate the overcrowding in the vehicle. Subsequently, all the female passengers then simultaneously exited the vehicle, except for the male driver.

PO Matzinger said he saw about seven individuals in this vehicle. PO Matzinger also said that the vehicle was equipped with three seat belts and four individuals sat in the back of this vehicle. PO Matzinger further denied engaging in any verbal disputes with any of the females or saying, “Get out the fucking car now, you don’t know how to mind your business.” Instead PO Matzinger said that when he instructed only one female passenger to exit the vehicle that this individual was compliant and denied hearing any female say, “I’m not getting out the car, I’m not going any fucking where.”

Witness Police Officer Giovanni Giovanniello, assigned to the 113th Precinct, and who is a white § 87(2)(b)-old male, provided a statement to CCRB on October 10, 2003 (encs.10D-E). On

April 6, 2003, PO Giovanniello worked a 11:15p.m.x7:50a.m. tour, dressed in uniform and was assigned to marked vehicle #2742, as the recorder with PO Joseph Matzinger.

PO Giovanniello corroborated PO Matzinger's account leading up to § 87(2)(b) being issued a summons § 87(2)(b). However, PO Giovanniello admitted that some words were exchanged between PO Matzinger and the female passengers, but denied that PO Matzinger was engaged in a verbal altercation with them.

According to PO Giovanniello, he and PO Matzinger saw a vehicle go through a red light and make a turn. They then stopped this vehicle and saw about eight individuals seated in the back seat of this vehicle. PO Giovanniello said that the driver was the only male, and the passengers were all females. PO Giovanniello admitted PO Matzinger had issued the driver a § 87(2)(b) summons and that one of the female passengers seated behind the driver then made a comment to PO Matzinger. PO Giovanniello said that he could not recall what was said except that "some words were exchanged." PO Giovanniello then said he heard PO Matzinger tell one of the female passengers seated in the back seat to exit the vehicle to alleviate the overcrowding, but all the females then simultaneously exited the vehicle.

PO Giovanniello said that all the females had voluntarily complied and denied hearing them verbally contest getting out the car by saying, "I'm not getting out the car, I'm not going any fucking where." PO Giovanniello further denied hearing any of the females call PO Matzinger a "fucking pig," or say, "he did not have nothing else fucking better to do." PO Giovanniello further denied hearing PO Matzinger curse at any of the females or say, "Get out the fucking car now. You don't know how to mind your business, you talk too fucking much."

Status of summons:

The New York City Traffic Violations Bureau was contacted. They report that summons § 87(2)(b) as reported by § 87(2)(b).

Conclusions and Recommendations

Issues in dispute:

There is no factual dispute that PO Joseph Matzinger issued a § 87(2)(b) summons to § 87(2)(b), who is an acquaintance to the victim § 87(2)(b) § 87(2)(b), § 87(2)(g).

PO Identification:

§ 87(2)(b) did not obtain PO Matzinger's name, but provided a physical description of him. PO Matzinger also confirmed his involvement with § 87(2)(b) but denied that they were engaged in a verbal altercation.

Witness Credibility:

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

PO Giovanniello denied hearing any female curse at PO Matzinger or call him a “fucking pig” or say, “they did not have nothing else fucking better to do.” § 87(2)(b), § 87(2)(g)

Allegation A: Police Officer Joseph Matzinger spoke obscenely to § 87(2)(b)

PO Matzinger admitted that he spoke to a female (later identified as § 87(2)(b) seated in a vehicle that was driven by § 87(2)(b). However, PO Matzinger did not obtain this individual’s name but identified her by gender, and as one of several females seated in the vehicle. However, PO Matzinger denied addressing § 87(2)(b) with any discourteous language by saying, “Get out the fucking car now, you don’t know how to mind your fucking business. You talk too much.”

According to PO Matzinger, he approached the vehicle, driven by § 87(2)(b) and saw that he was not wearing a seat belt and had too many passengers seated in his vehicle. PO Matzinger said he then instructed one of the female passengers to exit the overcrowded vehicle. PO Matzinger also said when he wrote § 87(2)(b) the summons § 87(2)(b), when one of the female passengers became “very agitated,” and called him a “fucking pig.” PO Matzinger also added that this same individual then told him that he had “nothing fucking better to do.”

§ 87(2)(b), § 87(2)(g)

§ 87(2)(g)

Patrol Guide procedure 203-09 attachment (enc.2), officers are prohibited from using discourteous remarks. § 87(2)(g)

Investigator:

Date:

Supervisor:

Date:

Reviewed by:

Date:

Reviewed by:

Date: